

REMARKS

Applicants respectfully request reconsideration and allowance in view of the foregoing amendments and the following remarks. In this response, claims 1, 5, 7, 9, 13, 15-17 and 19-20 are amended and claims 21-22 are added. Claims 4, 6 and 8 are cancelled. Upon entry of the Amendment, claims 1-3, 5 and 8-22 will be pending in the Application.

Claim Rejections under 35 U.S.C. § 112 (Second Paragraph)

In the Office Action, claims 1-3, 5, 7 and 9-16 stand rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner identified concerns with “criteria” and “measurements” recited in claims 1 and 7, respectively. Applicants have amended the claim 1 and 7 accordingly and respectfully submit that the rejections under 35 U.S.C. §112 are rendered moot. Therefore, for at least these reasons, the §112, second paragraph, rejections of amended claim 5 should be withdrawn.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, claims 19 and 20 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,933,813 to Teicher et al. (“Teicher”). Applicant has amended claims 19 and 20 to further distinguish the presently claimed inventions from Teicher. Further, Teicher is directed to a promotional system in which pricing of items in a store is dynamically changed based on sales activity over a period of time. Teicher does not teach the inventory management systems and methods of the present invention that track purchasing within one or more stores. For example, in response to reduced sales activity attributable to the blocked shelf condition of amended claim 1, Teicher would logically decrease sales price. Thus, Teicher cannot be said to be an inventory management system that issues alerts identifying an item that may be subjected to a condition such as a blocked shelf condition.

Furthermore, as amended, the claims require the transmission or reception of a response to the alert. Teicher does not teach a response to the alert as recited. In view of the amendments, Applicant respectfully submits that the §102 rejections are rendered moot. For at least these reasons, Applicant requests withdrawal of the rejections.

Claim Rejections under 35 U.S.C. § 103 or 35 U.S.C. § 102

In the Office Action, alternative grounds of rejection of claims 1-3, 7, 9, 10 and 12 under 35 U.S.C. § 102 and 35 U.S.C. § 103(a) are provided. Additionally, claims 5, 11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Teicher and claims 16-18 stand rejected under 35 U.S.C. § 103(a) and further in view of U.S. Patent No. 6,015,004 to Halperin et al. Applicant has amended the independent claims and respectfully submits that the amendments render the rejections moot.

In particular, Applicant has amended the independent claims to include limitations directed to a response to alerts and the identification of an item in a specified store. As acknowledged in the Office Action, Teicher does not teach determining when an alert was received, inspecting a shelf location and returning a response describing the condition. The Office Action asserts that these steps were obvious or that Halperin teaches the inspection of a shelf, selecting a descriptor and returning the descriptor. Applicant disagrees and respectfully submits that the Teicher-Halperin combination does not teach or suggest these limitations or the newly added limitations of the independent claims. Absent the application of hindsight, such limitations cannot be considered obvious.

Halperin provides a portable system that is used to count items on a shelf (see col. 2, lines 29-33) and to set prices on changeable labels on the shelf (see col. 2, lines 15-20). Halperin teaches electronic shelf labels that update pricing information and may track purchases or inventory movements (*see, generally*, Halperin at col. 2, lines 15-38). Nothing in Halperin suggests a system for responding to an alert where the response includes inspection of shelves for predetermined and other conditions and transmitting an indicator indicative of the condition to a central system. Therefore, Applicant respectfully submits that Halperin does not cure the deficiencies of Teicher.

Absent an impermissible use of hindsight, it is apparent that the combination of Teicher and Halperin does not teach receiving a response to the alert indicative of conditions of the identified item on shelf space in the identified store as required in claim 1. Nor does the combination of Teicher and Halperin teach inspecting a shelf location that corresponds with an item identified by a received alert, selecting a descriptor to describe a condition of the shelf location, transmitting the descriptor back to the alert device; and taking necessary corrective action as required in claim 17. The combination of Teicher and Halperin does not teach a means for receiving a response to the alert indicative of conditions of an item identified by the alert as required in claim 19. The combination of Teicher and Halperin does

not teach a plurality of electronic devices configured to receive the alerts and adapted to transmit a response to the alert, the response indicative of conditions of items on shelf space in a store as required in claim 20.

Therefore, for at least these reasons, Applicant requests withdrawal of the claim rejections.

CONCLUSION

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition of allowance and a Notice to that effect is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is requested to contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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